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October 23, 2015

Attention: Hon. Arthur D. Spatt  
United States District Court  
100 Federal Plaza  
Central Islip, NY 11722

Re: Juan Escobar v. DelMonaco Brothers  
Industries Inc. - Docket No. 14-CV-3091

Dear Judge Spatt:

This is in response to your Order, dated October 21, 2015 concerning the defendant's lack of response to plaintiff's motion for summary judgment. A review of the Rule 56.1 Statement of Undisputed Facts and attached depositions of all parties establishes a lack of a dispute of facts submitted in support of plaintiff's motion for summary judgment. For this reason, my client is not submitting a meritless or frivolous affidavit in opposition to the motion.

The reality is this is a financial relationship that was established between the parties beginning twenty (20) years ago while it may be frowned upon by the Federal Fair Labor Standards Act, it is in reality how many small businesses on Long Island operate in these difficult economic times. The defendant employer attempted to maintain employment for as many employees as possible so that they would not be without income to support of their families. Defendants now realize they need to operate in a more formal compensation routine or close but this was the only way to keep the employees employed and continue operation of the business. While it does not satisfy the theoretic goals of the Federal Fair Labor Standards Act, I certainly believe the intent was to make certain that the employees were paid fairly and in accordance with the understanding between the parties. There is no dispute of that

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in this case. Mr. Escobar never demanded more compensation for the past twenty (20) years and it was only until he met with legal counsel did he seek additional compensation other than what he agreed to with his employers.

For the reasons stated hereinbefore, the defendants are not opposing plaintiff's motion but believe that the violations were not egregious and were truly meant to maintain the plaintiff's employment during this past great recession.

Very truly yours,

A handwritten signature in blue ink that reads "Darrell J. Conway". The signature is written in a cursive, flowing style.

Darrell J. Conway

DJC:eld

cc: David S. Feather, Esq.